



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/045,386 03/20/98 WALKER

J WD2-97-557

022927
WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

TM02/1011

EXAMINER

MORSE, G
ART UNIT PAPER NUMBER

2167
DATE MAILED:

10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/045,386

Applicant(s)
Walker

Examiner
Greg Morse

Art Unit
2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 19-40 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 19-24, and 27-32 is/are rejected.
- 7) ☒ Claim(s) 11, 14, 25, 26, and 33-40 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: ☒ approved ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

Art Unit: 2167

DETAILED ACTION

1. The amendment of 6/18/2001 has been received and entered.
2. The rejection based on Katz et al. is withdrawn. The customer number of Katz is, as applicant points out, an identifier of a specific customer rather than a measure of processes. It is analagous to a name, social security number, or e-mail address.
3. Claims 1-14, 19-40 are pending.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 12-13, 19-24, 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Off et al., U.S. patent 5,173,851. Off measure an activity rate (monitoring for step 77 in Fig. 4b, Col 9 lines 20-38, Col. 11 line 66-Col. 12 line 10) at a point of sale terminal with a supplemental process involving a customer offer (printing out of custom coupons), where the amount of time printing coupons (based on the number of coupons) is controlled by the monitoring of the activity.

With respect to Claim 10 some of the offers are "high priority", printed before the trigger point in the transaction and some are regular priority.

Art Unit: 2167

Allowable Subject Matter

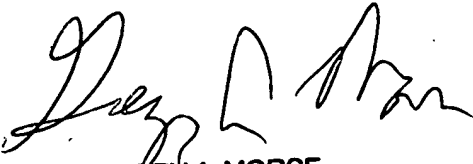
6. Claims 11, 14, 25-26, 33-40 are allowed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The article "Cataloging for entrepreneurs: Advanced phone techniques..." by Susan McIntyre is relevant, especially item (6). However, the date of this article is after the filing date of this application. Emerson et al. shows a system which monitors any number of items including frequency of purchases by a customer and generates direct marketing from that data. This is broadly measuring and activity rate at a sales terminal and basing a product offer (the direct marketing) on that information. Frey et al. shows a monitor for a grocery store with monitors for the traffic in the store.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Morse whose telephone number is (703) 308-4789.

MORSE/gam
October 9, 2001


GREGORY A. MORSE
PRIMARY EXAMINER